



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/706,081

11/13/2003

Nathan Ravi

111828-00110

7277

27557

7590

12/08/2009

BLANK ROME LLP

WATERGATE

600 NEW HAMPSHIRE AVENUE, N.W.

WASHINGTON, DC 20037

EXAMINER

ROBERTS, LEZAH

ART UNIT

PAPER NUMBER

1612

MAIL DATE

DELIVERY MODE

12/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/706,081	Applicant(s) RAVI, NATHAN	
	Examiner LEZAH W. ROBERTS	Art Unit 1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27, 29-39 and 45-121 is/are pending in the application.
- 4a) Of the above claim(s) 1-22, 30, 32, 33, 46-116 and 119-121 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-27, 29, 31, 34-39, 45, 117 and 118 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' arguments, filed August 27, 2009, have been fully considered. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims

Claim Rejections - 35 USC § 103 – Obviousness

Claims 23-27, 29, 31, 34-39, 45, 117 and 118 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Talcott (US 4,537,943) in view Marchant (US 2002/0068087), the combination being taken further in view of Klopotek (US 6,730,123). The rejection is maintained.

Applicant's Arguments

Applicant argues it would not have been obvious to use the hydrogel of Marchant in the lens of Talcott. The material of Marchant is not suitable for use in the lens of Talcott because it is a degradable hydrogel and Talcott discloses a natural lens replacement. Thus, the hydrogel of Marchant is designed to be degradable and

eventually removed from the body. With regard to Klopotek, that reference discloses an IOL with an optical chamber deformable under influence of a fluid. The IOL of Klopotek is the kind of lens that Talcott tries to avoid. Focusing performance of the IOL of Klopotek can be changed using the associated fluid. The lens of Talcott is not adjustable by any external fluid. It mimics the natural lens, and thus, can be focused using the ciliary muscles. Thus, Klopotek also does not cure the deficiency of Marchant.

Examiner's Response

This argument is not persuasive. Talcott discloses replacement lenses and forming these lenses *in vivo*. The reference also discloses this is achieved by using cross-linkers. Marchant is used because it discloses cross linkers suitable for use to form hydrogels in the ocular cavity *in vivo*. One of ordinary skill in the art would recognize the advantage of using the disclosed reversible cross-linkers in the compositions of Talcott not only based on their suitability but also based on the advantage of using a cross-linking agent that would allow the replacement lens to be adjusted after it is injected into the capsular bag, because of their reversibility, without the need for evasive procedures as disclosed by Klopotek. Although Klopotek teaches a different method of adjusting an intraocular lens, its disclosure is used as a general teaching that provides motivation as to why one of ordinary skill in the art would want to use a system that may be adjusted once in the capsular bag. Thus, although one of ordinary skill in the art may not use the actual hydrogels of Marchant to make a replacement lens, one would use a cross-linking agent such as N,N'-acrylamide

cystamine because of its suitability for intraocular applications and their ability to enable one to adjust the lens without invasive procedures.

Claims 23-27, 29, 31, 34-39, 45, 117 and 118 are rejected.

Claims 1-22, 30, 32, 33, 46-116 and 119-121 are withdrawn.

No claims allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEZAH W. ROBERTS whose telephone number is (571)272-1071. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick F. Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lezah W Roberts/
Examiner, Art Unit 1612
/Gollamudi S Kishore/
Primary Examiner, Art Unit 1612